

EXHIBIT N
TO THE DECLARATION OF JOSEPH V. WILLEY

CA. DEP'T HEALTH CARE SERVS., PPL. NO. 20-014R: LOCAL EDUCATIONAL AGENCY MEDI-CAL BILLING OPTION PROGRAM (LEA BOP) TELEHEALTH POLICY RELATED TO THE CORONAVIRUS DISEASE 2019 (COVID-19)
(Sept. 15, 2020)



State of California—Health and Human Services Agency
Department of Health Care Services



GAVIN NEWSOM
GOVERNOR

Date: September 15, 2020

PPL NO. 20-014R

To: Local Educational Agencies (LEA Providers)

Subject: LOCAL EDUCATIONAL AGENCY MEDI-CAL BILLING OPTION PROGRAM (LEA BOP) TELEHEALTH POLICY RELATIVE TO THE CORONAVIRUS DISEASE 2019 (COVID-19)

The purpose of this Policy and Procedure Letter (PPL) is to provide guidance to LEA Providers participating in the LEA BOP regarding covered direct medical services provided to Medi-Cal enrolled students via telehealth during the declared national emergency due to COVID-19.

BACKGROUND

On January 31, 2020, the Secretary of Health and Human Services (HHS) declared a public health emergency to aid the nation's healthcare community in responding to COVID-19. On March 13, 2020, the President of the United States issued a proclamation that the COVID-19 outbreak in the United States constitutes a national emergency. The Secretary of HHS invoked his authority to waive or modify certain requirements of title XIX of the Social Security Act, with a retroactive effective date of March 1, 2020, through the end of the emergency declaration.

On March 4, 2020, Governor Newsom declared a State of Emergency for California stating, among other things, "State and local health departments must use all available preventative measures to combat the spread of the virus." On April 3, 2020, the [Governor issued Executive Order No. N-43-20](#), suspending the requirements specified in Business and Professions Code section 2290.5(b), related to the responsibility of a health care provider to obtain verbal or written consent before the use of telehealth services and to document that consent, as well as any implementing regulations.

In light of the federal HHS Secretary's January 31, 2020, public health emergency declaration, the President's March 13, 2020, national emergency declaration and the Governor's state of emergency declaration relative to COVID-19, the Department of Health Care Services (DHCS) is directing LEA Providers to provide covered direct medical services to Medi-Cal enrolled students via telehealth whenever possible, except

as described below. This policy has a retroactive effective date of March 1, 2020 and will be in effect until the national emergency is terminated.

During the national emergency, LEA Providers may bill for covered direct medical services provided via telehealth under the LEA BOP, except for services, such as specialized medical transportation services, that preclude a telehealth modality. LEAs may utilize any appropriate non-public facing remote communication products available in their delivery of billable telehealth services during this period. DHCS will reimburse for covered services provided via telehealth in the same manner and at the same rate as for face-to-face services. Consistent with current policy for existing LEA BOP telehealth speech services, DHCS will not pay for ancillary costs, such as technical support, transmission charges, and equipment.

During the national emergency, DHCS authorizes reimbursement for covered direct medical services provided via telehealth to all Medi-Cal enrolled students, including students with and without an IEP/IFSP. The LEA must meet all existing LEA BOP requirements related to non-IEP/IFSP services, including that students' other health coverage must be billed before billing Medi-Cal.

Service authorizations (prescriptions, referrals or recommendations, as outlined in the LEA Provider Manual) that will expire during the national emergency may be extended until the end of the national emergency¹. The authorization does not need to identify whether services will be delivered via face-to-face contact or via telehealth.

This PPL does not limit or restrict LEA Providers that require face-to-face contact when the LEA Provider determines, on a case-by-case basis, that face-to-face contact is necessary or that providing a service via telehealth is not feasible. In all instances, DHCS encourages LEA Providers to take the appropriate precautions to protect students, themselves, and their community's health. For current information on the most recent guidelines, please visit www.cdph.ca.gov/covid19.

MEDI-CAL ENROLLMENT REQUIREMENTS

During the national emergency, providers may treat Medi-Cal beneficiaries and be reimbursed for covered services even if they are located in another state or licensed to only practice in another state.

During the national emergency, a LEA Provider employed practitioner rendering Medi-Cal covered services via a telehealth modality can continue to deliver services and bill under the LEA Provider's National Provider Identifier consistent with LEA BOP policy when providing face-to-face services. DHCS has revised its policy on Medi-Cal enrollment of contracted practitioners delivering services via telehealth under the LEA

¹ The authority for service authorizations can be found in the DHCS Section 1135 Waiver for COVID-19 Flexibilities.

BOP; contractors do not need to enroll as a Medi-Cal provider during the State of Emergency.²

Consistent with current LEA BOP policy, employed or contracted LEA practitioners that order, refer or prescribe (ORP) treatment services to Medi-Cal beneficiaries must enroll as an ORP provider through Provider Enrollment Division (PED). See [PPL #18-018R](#), available on the LEA Program website, for additional information on ORP provider requirements.

DOCUMENTATION REQUIREMENTS

LEA Providers are required to maintain the same standard of documentation as detailed in the LEA Program Provider Manual, except for the requirement contained in [“Local Educational Agency \(LEA\): Telehealth” \(loc ed tele\)](#) that the provider must obtain oral consent from the student’s parent or legal guardian to utilize a telehealth modality and to document this consent in the student’s medical record. The written or oral telehealth consent requirement has been waived during this national emergency. All medical information transmitted during the delivery of health care services via telehealth must be documented and become part of the student’s medical record.

According to the [Individuals with Disabilities Education Act \(IDEA\), Providing Services to Children with Disabilities During the Coronavirus Outbreak](#), it is not necessary that the student’s IEP or IFSP identify that the services will be provided via telehealth.

DHCS reminds LEA Providers that all individual medical records of beneficiaries shall be confidential and personal health information shall not be released without the written consent of the beneficiary, legal guardian, or personal representative.

BILLING REQUIREMENTS

DHCS will reimburse for covered services provided via telehealth in the same manner and at the same rate as for face-to-face services. Claims for speech services delivered via telehealth will continue to be reimbursed with the modifier ‘95’. **LEAs must submit all other telehealth claims to DHCS through the fiscal intermediary without the telehealth modifier (modifier ‘95’) in order to receive reimbursement.**

TERMINATION

This PPL will cease to be in effect upon the termination of the national emergency, at which time LEA Providers must immediately resume the usual mode of face-to-face direct medical services except as permitted in the LEA Provider Manual. DHCS will issue a PPL notifying all LEA Providers the date that the national emergency has ended.

² In this scenario, contractors must have voluntarily reassigned their right to bill to the LEA and the LEA bills for services and receives reimbursement for covered services provided by qualified contractors.

If you have questions concerning this PPL, please contact the LEA BOP by e-mail at LEA@dhcs.ca.gov.

Sincerely,

ORIGINAL SIGNED BY

Rick Record, Chief
Local Educational Agency Medi-Cal Billing Option Program